IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 1672 of 1996

For Approval and Signature:

HONOURABLE MS. JUSTICE R.M.DOSHIT

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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GUJARAT INDUSTRIAL INVESTMENT CORPORATION LTD - Petitioner(s)
Versus
MITUSINH BHAIRAVSINH & 1 - Respondent(s)

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Appearance :
MR BR GUPTA for Petitioner(s) : 1,
Respondent : 1 SERVED,
Respondent : 2 UNSERVED,

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CORAM : HONOURABLE MS. JUSTICE R.M.DOSHIT

Date : 12/09/2006

ORAL JUDGMENT

Though served, the respondent No.1 has not entered appearance. Respondent No.2 is reported unserved.

Mr.Gupta has submitted that the respondent No.2 (hereinafter referred to as, **“the Company”**) is a formal party. No relief is claimed against the Company. He, therefore, seeks leave to delete the respondent No.2. Leave is granted. Respondent No.2 is ordered to be deleted from the cause-title of the petition.

This petition is preferred by the Gujarat Industrial Investment Corporation Limited (hereinafter referred to as, **“the Corporation”**) against the order dated 25th January, 1996 made by the authority under the Payment of Wages Act, 1936 below application Exh.10 in Payment of Wages Application No.5/1996.

Mr.Gupta has submitted that the respondent No.1 (hereinafter referred to as, **“the workman”**) is a workman employed by the Company. The Company had availed of the financial assistance from the Corporation. As the Company failed to discharge its obligation to the Corporation, under the powers

conferred by Section 29 of the State Financial Corporation Act, 1951, the Corporation has taken over the assets of the Company. The workman had filed the above referred Application No.5/1996 against the Company for recovery of wages. In the said Application the workman took out application Exh.10 for impleadment of the Corporation. According to the workman as the Corporation has taken over the assets of the Company, to secure the interest of the workman, preservation of the assets of the Company was essential. The Corporation was, therefore, a necessary party to the pending proceedings. The said application Exh.10 has been allowed by the authority below by the impugned order. Therefore, the present petition.

Mr.Gupta has submitted that the Corporation is not the employer of the workman. The Corporation is under no obligation to pay wages to the workman. The Corporation, therefore, cannot be a necessary nor a proper party in the pending litigation between the workman and his employer, the Company. Nevertheless, without recording any reason for the same, the authority has allowed the said application Exh.10. It

has directed to implead the Corporation as party respondent in the aforesaid Application No.5/1996.

It is true that the authority has not given any reason why the Corporation is a necessary or a proper party in the pending Application No.5/1996. It is not in dispute that the Corporation is not the employer of the workman nor the Corporation is under any obligation to pay wages to the workman. It is not demonstrated that the lis between the workman and the Company cannot be effectively decided without the presence of the Corporation.

In above view of the matter, I am of the opinion that the Corporation is neither a necessary nor a proper party in the Payment of Wages Application No.5/1996. The authority below has erred in allowing the application Exh.10 and in directing to implead the Corporation.

In above view of the matter, the petition is

allowed. The impugned order dated 25th January, 1996 made below application Exh.10 in Payment of Wages Application No.5/1996 pending before the authority under the Payment of Wages Act is quashed and set-aside. Application Exh.10 in Payment of Wages Application No.5/1996 is rejected. Rule is made absolute. There shall be no order as to cost.

(Ms. R.M.Doshit, J.)

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